



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JANUARY 26, 2004

ITEM NUMBER:

**SUBJECT: PLANNING APPLICATIONS PA-01-03 AND PA-01-04 (TIME EXTENSION)
2059 HARBOR BOULEVARD**

DATE: JANUARY 15, 2004

**FOR FURTHER INFORMATION CONTACT: MEL LEE, ASSOCIATE PLANNER
(714) 754-5611**

PROJECT DESCRIPTION

The applicant is requesting approval of a one-year time extension for the following applications:

PA-01-03

Conditional use permit to allow motor vehicle sales at the front (Harbor Boulevard end) of the lot with an administrative adjustment to deviate from landscape setbacks for auto display (20-foot front landscape setback required, 15-foot landscape setback proposed).

PA-01-04

Conditional use permit to legalize outdoor storage of motor vehicles at the rear (Charle Street end) of the lot.

APPLICANT

The applicant is Wesley N. Taylor, representing the property owner, Beacon Bay Enterprises, Inc., and the buyer of the property, Robins Properties.

RECOMMENDATION

Approve extension to September 14, 2004, by adoption of Planning Commission resolution, subject to conditions.

MEL LEE
Associate Planner

PERRY J. VALANTINE
Asst. Development Services Director

BACKGROUND

The subject site, which is currently vacant, was utilized as a car wash and gas station (Beacon Bay Auto Wash) from 1961 to 2001. A small take-out restaurant also existed on the property. Robins Properties (Theodore Robins Ford) is in escrow to purchase the property from Beacon Bay.

On July 23, 2001, the Planning Commission considered the following planning applications for the subject property:

PA-01-03 for the front (Harbor Boulevard) half of the lot:

The applicant requested approval of a conditional use permit to allow motor vehicle sales with an administrative adjustment to deviate from front landscape setbacks for auto display purposes (20-foot front landscape setback required, 15-foot landscape setback proposed). Planning Commission approved PA-01-03 on a 3 to 1 vote (Commissioner Foley voting no).

PA-01-04 for the rear (Charle Street) half of the lot:

The applicant requested approval of a conditional use permit to legalize outdoor storage of motor vehicles with an administrative adjustment to deviate from rear landscape setbacks (15-foot rear landscape setback required, 10-foot landscape setback proposed). Planning Commission approved PA-01-04 with respect to the vehicle storage, but denied the applicant's request to deviate from the required 15-foot rear landscape setback requirement, on a 3 to 1 vote (Commissioner Foley voting no).

As part of the project approval, vehicle access to the site from Charle Street was limited to a single driveway (there are currently two driveways on Charle Street).

Commission's approval of the applications was appealed by a Council member. City Council upheld the approval of the project on September 4, 2001.

On June 18, 2002, the applicant advised staff that the Harbor Boulevard half of the lot needed to be cleared of toxic contamination, due to leaking underground fuel tanks, prior to the close of escrow. As a result, a time extension request was needed. On October 18, 2002, the applicant formally requested a one-year time extension, which was considered by the Commission on December 13, 2002.

At the December 13, 2002 meeting, the Commission expressed concern with the applicant continuing to store cars on the Charle Street half of the lot, without the required landscape setback and other site upgrades, while the Harbor Boulevard half was being cleaned. At the meeting, the Commission added a

condition of approval (condition number 17) to PA-01-04 requiring the applicant to comply with the conditions of approval within 90 days from the date of approval, or remove the vehicles until the conditions are satisfied. The applicant agreed to comply with the condition.

On November 18, 2003 the applicant requested an additional one-year time extension. As of this date, vehicles are continuing to be stored on the rear portion of the site and no landscaping or other improvements have been made.

ANALYSIS

In a letter dated January 5, 2004 (a copy of which is attached to this report) the applicant states that the reason the improvements have not been made is because escrow cannot close (and therefore Robins cannot make the required improvements) until the site has been cleaned and a closure letter issued by the County. The exact date of the completion of the site cleanup is not known at this time; it is estimated to take at least another two years.

Code allows the Commission to extend the approval of a planning application for successive one-year periods upon showing of good cause by the applicant. There have been no changes in the City Codes that affect the project as originally approved. Copies of the conditions of approval and original staff report are attached to this report.

Staff is recommending an additional condition of approval for PA-01-03 for the applicant to provide a 15-foot landscaped setback along Harbor Boulevard (condition number 21). The purpose of this condition is to insure that a 15-foot landscape is provided per this approval in the event the code is modified to require a 10-foot setback for motor vehicle dealerships. Staff is also recommending an additional condition of approval for PA-01-04 (condition number 18) requiring that storage of vehicles cease until the conditions of approval have been satisfied. The previous condition for removal of the vehicles within 90 days (condition number 17) has been deleted.

ALTERNATIVES

If the time extension were not approved, the original permits would expire and the proposed uses could not be established on the property. The applicant could file a new application after six months.

CONCLUSION

It is staff's opinion that the time extension requested by the applicant should be granted to allow the cleanup of the site to be completed and the improvements

to move forward. However, the vehicles should be removed until the improvements are completed and all conditions fulfilled.

Attachments: Extension Request
 Draft Planning Commission Resolution
 Exhibit "A" – Findings (PA-01-03)
 Exhibit "B" – Conditions (PA-01-03)
 Exhibit "A" – Findings (PA-01-04)
 Exhibit "B" – Conditions (PA-01-04)
 Planning Commission Minutes
 Original Planning Staff Reports
 Location Map
 Plans and Photos

c: Deputy City Manager - Dev. Svcs. Director
 Assistant City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Wesley N. Taylor
3 Civic Plaza, Suite 165
Newport Beach, CA 92660

Patrick Shea
Beacon Bay Enterprises, Inc.
3152 Redhill Avenue, Suite 230
Costa Mesa, CA 92626-3418

WESLEY N. TAYLOR CO. "SINCE 1946"

• **COMMERCIAL-INDUSTRIAL BROKERAGE** •

3 Civic Plaza
Suite 165
Newport Beach, CA 92660
(949) 644-4910
FAX (949) 640-1539

January 5, 2004

PLANNING COMMISSION
CITY OF COSTA MESA
COSTA MESA CITY HALL
77 Fair Drive
Costa Mesa, California 92628

Gentlemen:

This office is the Property Manager for Robins Properties wherein we had submitted a letter, dated November 18, 2003, to the City for an extension of time on the Conditional Use Permit relative to 2059 Harbor Boulevard, a copy of which is enclosed herewith.

The subject Use Permit requires certain improvements to be made to the premises for continued use as desired by Robins Properties.

In order that you will fully understand the position of both Robins Properties and Beacon Bay Enterprises, Inc., the present owner of 2059, we set forth herewith the facts regarding the property and its present and future use.

Robins Properties is owned by the Robins Family, owners and operators of Theodore Robins Ford for over 75 years. Theodore Robins Ford is bursting at the seams at its present location across the street and has entered into a firm Purchase Contract and Escrow with Beacon Bay Enterprises, Inc. to purchase 2059 Harbor Boulevard for expansion of the Ford Dealership business.

The property is in escrow with Chicago Title Co., 16969 Von Karman Avenue, Suite 200, Escrow #13808209, Margie Wheeler, Escrow Officer, (949) 263-0123.

The terms and conditions of the Purchase Contract and Escrow contain the following language, "The escrow shall be closed at the earliest possible date that Seller can deliver a Closure Letter from the regulatory authorities satisfactory to Buyer evidencing that there is no need for further remediation of the previously existing soil contamination".

Beacon Bay has exerted every possible effort to expedite the cleanup of soil contamination caused by fuel leakage from prior underground storage tanks when the property was occupied by Beacon Bay Car Wash, which was closed about a year ago. The long delay in commencing the remedial work was the disagreement between the owner of the land and the regulatory authorities

as to which method of remediation would be used. The dig and haul method was the fastest method, but the most expensive, which the Underground Storage Fund would not approve, thus making it necessary to devise a vacuum extraction method which takes much more time, but is less expensive for the Fund.

When the escrow closes, Robins will be making substantial improvements to the property as required by the City to build adequate facilities for automobile sales on the front portion of the property and vehicle storage on the rear portion.

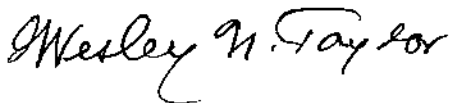
Due to the extensive installation of underground soil remedial equipment and the above ground associated equipment, it makes it extremely impractical to attempt any further improvements to the property until the Seller, Beacon Bay, completes the remedial work and obtains a closure letter thus making it possible to close the escrow.

Making any improvements at this time would be a total waste of money because they would have to be removed when the underground remedial equipment is removed.

We respectfully request the extension of time in order that Robins may continue to store vehicles on the rear portion of the land without making any wasteful expenditures because if Beacon Bay is unable to obtain a closure letter on the site, the escrow will most likely be cancelled.

Very truly yours,

WESLEY N. TAYLOR CO.

A handwritten signature in cursive script that reads "Wesley N. Taylor".

Wesley N. Taylor
President

WNT:mcf

WESLEY N. TAYLOR CO. "SINCE 1946"
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3 Civic Plaza
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November 18, 2003

CITY OF COSTA MESA
PLANNING DEPARTMENT
77 Fair Drive
P O Box 1200
Costa Mesa, CA 92628-1200

Attention: Mr. Mel Lee

Dear Mel:

This letter is a request for an extension of time on the Conditional Use Permit issued to Beacon Bay Enterprises and Robins Properties for the use of the rear portion of 2059 Harbor Boulevard for vehicle storage.

Beacon Bay Enterprises and Robins Properties are in an escrow for the sale and purchase of the property upon completion of the remediation work, which was long delayed by the regulatory authorities.

The environmental contractors, C. James & Associates, Inc., have recently received their final permits and remediation is under way, but completion is many months down stream from the expiration date of the present Conditional Use Permit. Based on these facts, we hereby request the extension of the Conditional Use Permit for a period of one year beyond its present expiration date, which we believe to be December 16, 2003.

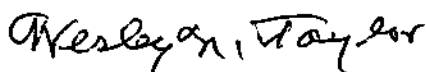
We submit herewith Robins Properties' check in the amount of \$205.00 for the City fees. We have ordered 500 foot radius maps from Susan Case, and I will personally hand deliver these to you upon receipt thereof.

If you need anything further regarding this application, please call me at your earliest convenience and I will supply same.

Thank you for your cooperation.

Very truly yours,

WESLEY N. TAYLOR CO.



Wesley N. Taylor
President

WNT:yd

RESOLUTION NO. PC-04-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING AN EXTENSION OF
TIME FOR CONDITIONAL USE PERMIT PA-01-03 AND PA-
01-04**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES
AS FOLLOWS:

WHEREAS, an application was filed by Wesley N. Taylor, authorized agent for Beacon Bay Enterprises, Inc., owner of real property located at 2059 Harbor Boulevard, requesting a one-year extension of time for previously-approved conditional use permits to allow motor vehicle sales on the front half of the lot with an administrative adjustment to deviate from front landscape setbacks for auto display (20-foot landscape setback required, 15-foot landscape setback proposed); and to allow outdoor storage of motor vehicles on the rear half of the lot; and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on January 26, 2004.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** the extension of time for Conditional Use Permit PA-01-03 and PA-01-04 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for Conditional Use Permit PA-01-03 and PA-01-04 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 26th day of January, 2004.

Chair, Costa Mesa
8 Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Perry L. Valantine, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on January 26, 2004, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS (PA-01-03)**

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the motor vehicle sales use proposed for the front portion of the site is consistent and compatible with the commercial uses on adjacent properties and motor vehicle sales uses elsewhere on Harbor Boulevard. Granting the conditional use permit will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.
- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
 - a. The proposed development and use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The proposed project complies with applicable performance standards prescribed in the Zoning Code.
 - d. The project is consistent with the General Plan.
 - e. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. The information presented substantially complies with Section 13-29(g)(1) and Section 13-144(b) of the Costa Mesa Municipal Code in that special circumstances applicable to the property exist to justify granting of the administrative adjustment. Specifically, the strict application of the code-required landscaped setback would place the applicant at a competitive disadvantage to similar auto sales uses along Harbor Boulevard, many of which were approved with reduced landscape setbacks. Due to the speed and volume of vehicle traffic along Harbor Boulevard, auto sales uses require the display of vehicles be as close to the street as possible for maximum visibility. This creates a circumstance where approval of the administrative adjustment is justified. Granting the administrative adjustment will not allow a use, density, or intensity, which is not in accordance with the General Plan designation for the property.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- E. The project, as conditioned, is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL (PA-01-03)**

- Plng.
1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 2. Street addresses shall be displayed on the freestanding sign, or, if there is no freestanding sign, on the building fascia adjacent to the main entrance of the building in a manner visible to the public street. Street address numerals shall be a minimum 12 inches in height with not less than 3/4-inch stroke and shall contrast sharply with the background.
 3. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
 4. The subject property's ultimate finished grade level may not be filled/raised unless necessary to provide proper drainage, and in no case shall it be raised in excess of 30 inches above the finished grade of any abutting property. If additional fill dirt is needed to provide acceptable on-site stormwater flow to a public street, an alternative means of accommodating that drainage shall be approved by the City's Building Official prior to issuance of any grading or building permits. Such alternatives may include subsurface tie-in to public stormwater facilities, subsurface drainage collection systems and/or sumps with mechanical pump discharge in-lieu of gravity flow. If mechanical pump method is determined appropriate, said mechanical pump(s) shall be continuously maintained in working order. In any case, development of subject property shall preserve or improve the existing pattern of drainage on abutting properties.
 5. The conditions of approval and ordinance or code provisions of Planning Application PA-01-03 shall be blueprinted on the face of the site plan.
 6. The applicant shall contact the Planning Division to arrange for a planning inspection of the site prior to the release of occupancy. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 7. Street setback landscape planters shall be mounded to a high point of at least 24 inches with approved turf and/or ground cover on the street side front half of the planter and shrubbery plantings and trees on the back half.

8. Decorative wrought iron fences or masonry walls a minimum of 6 feet in height shall be constructed along the interior property lines. Chain link fencing shall not be permitted. Wall or fence color and material shall be subject to Planning Division approval.
9. Show method of screening for all ground-mounted mechanical equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). Ground-mounted mechanical equipment shall not be located in any landscaped setback visible from the street and shall be screened from view, under the direction of Planning Staff.
10. Rooftop mechanical equipment shall not be permitted.
11. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
12. The use shall be conducted, at all times, in a manner to allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever operational measures are necessary to comply with this requirement.
13. The use shall be limited to the sales, leasing, display and storage of motor vehicles. This conditional use permit does not authorize the service or repair of motor vehicles. Any use which has the effect of expanding or intensifying the use on the property shall be subject to review by the Planning Division and may require the approval of a new conditional use permit.
14. Employees and customers shall be required to park on-site.
15. There shall be no test driving of vehicles on residential streets.
16. The use of loudspeakers, public address and/or paging systems, and two-way radios shall be prohibited.
17. The applicant shall provide a minimum of 150 square feet of interior landscaping, subject to Planning Division approval.
18. Construction, grading, materials delivery, equipment operation or other noise-generating activity shall be limited to between the hours of 7 a.m. and 8 p.m., Monday through Friday, and between the hours of 8 a.m. and 7 p.m. on Saturday, Sunday, and Federal holidays. Exceptions may be made for activities that will not generate noise audible from off-site, such as painting and other quiet interior work.
- Trans. 19. Access to the rear (Charle Street) half of the site shall be provided from Harbor Boulevard. A minimum 20-foot wide drive aisle shall be provided for this purpose.
- Eng. 20. Maintain the site and public right-of-way in a "wet-down" condition during construction to prevent excessive dust and remove any spillage from the public right-of-way by sweeping or sprinkling.
21. The applicant shall provide a 15-foot landscaped setback along Harbor Boulevard.

EXHIBIT "A"

FINDINGS- PA-01-04

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, no vehicular access from Charle Street would be permitted, the existing drive approaches would be required to be removed, and a solid 6-foot high decorative block wall and landscaping would be required across the entire property frontage. These requirements will ensure that storage of motor vehicles is compatible with the residential properties and future commercial development does not generate an increase in traffic on Charle Street that could adversely affect residential properties. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.
- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
 - a. The proposed development and use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The proposed project complies with applicable performance standards prescribed in the Zoning Code.
 - d. The project is consistent with the General Plan.
 - e. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- D. The project, as conditioned, is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL (PA-01-04)**

- Plng.
1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 2. Street addresses shall be displayed on the freestanding sign, or, if there is no freestanding sign, on the building fascia adjacent to the main entrance of the building in a manner visible to the public street. Street address numerals shall be a minimum 12 inches in height with not less than 3/4-inch stroke and shall contrast sharply with the background.
 3. Address assignment shall be requested from the Planning Division prior to submittal of working drawings for plan check. The approved address of individual units, suites, buildings, etc., shall be blueprinted on the site plan and on all floor plans in the working drawings.
 4. The applicant shall contact the Planning Division to arrange for a planning inspection of the site. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 5. The applicant shall provide a 15-foot landscaped setback along Charle Street.
 6. Street setback landscape planters shall be mounded to a high point of at least 24 inches with approved turf and/or ground cover on the street side front half of the planter and shrubbery plantings and trees on the back half.
 7. A permanent masonry wall a minimum of 6 feet in height shall be constructed behind the required landscape setback along Charle Street. Decorative wrought iron fences or masonry walls a minimum of 6 feet in height shall be constructed along the interior property lines. Chain link fencing shall not be permitted. Wall and fence colors and materials shall be subject to Planning Division approval.
 8. Show method of screening for all ground-mounted mechanical equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). Ground-mounted mechanical equipment shall not be located in any landscaped setback visible from the street and shall be screened from view, under the direction of Planning Staff.
 9. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

10. The use shall be conducted, at all times, in a manner to allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever operational measures are necessary to comply with this requirement.
11. Approval of this project is limited to the following use: sales, leasing, and storage of motor vehicles. This conditional use permit does not authorize the service or repair of motor vehicles. Any use which has the effect of expanding or intensifying the use on the property shall be subject to review by the Planning Division and may require the approval of a new conditional use permit.
12. No storage of vehicles in a wrecked or dismantled condition shall be permitted.
13. No signage of any type, including, but not limited to, balloons, pennants, price signs, and banners, shall be placed along the Charle Street frontage or displayed on the stored vehicles.
- Trans. 14. No vehicular access from Charle Street shall be permitted. Existing driveways and/or curb depressions shall be replaced with full height curb and sidewalk, including portion of northern drive approach extending north of subject property.
15. Access to the rear (Charle Street) half of the site shall be provided from Harbor Boulevard. A minimum 20-foot wide drive aisle shall be provided for this purpose.
- Eng. 16. Maintain the site and public right-of-way in a "wet-down" condition during construction to prevent excessive dust and remove any spillage from the public right-of-way by sweeping or sprinkling.
17. Deleted.
18. All vehicles shall be removed from the site within 30 days. Vehicle storage shall not be permitted until the above conditions have been satisfied.

MOTION:
Appeal ZA-02-64
Died for lack of a second

A motion was made by Chair Foley to reverse the Zoning Administrators denial of the project based on findings and subject to conditions contained in the memo provided by staff because she like the mission style of the design and she understood the need for the elongated style of the home. The motion died for lack of a second. Chair Foley believed it would enhance and complement the 19th Street corridor. She called the request a good example of why each request needed to be examined on a case-by case basis. Each neighborhood is unique and requires a different style. It was Chair Foley's opinion that this remodeling project would ultimately upgrade the neighborhood.

Commissioner Davenport said that basically the fact that Mr. Hernandez's examples of similar structures already built in the neighborhood and elsewhere were all erected previous to adoption of the new guidelines. He also felt that Mr. Hernandez's effort to maintain living space in the home while doing the remodeling was constricting design possibilities and there would be a chance of better design if the entire structure were to be demolished.

Vice Chair Garlich objected to the mass and scale of the architecture and he didn't think the City Council guidelines were being met.

Commissioner Egan felt that although the guidelines may be met, the design of the home did not meet the spirit of the guidelines. She objected to repeating poor design and felt the home would only be salable as a boarding house.

Commissioner Perkins agreed with Commissioners Davenport, Egan and Garlich and felt the examples of other homes displayed by Mr. Hernandez emphasized why new guidelines were adopted.

Chair Foley felt the Westside could accommodate large-scale homes and urged the Commissioners to open their minds to creative design. She didn't feel that selling prospects were a Planning Commission concern and they had never before considered the number of bedrooms. Chair Foley and Commissioner Egan further discussed their thoughts on the projects attributes or lack thereof.

MOTION:
Appeal ZA-02-64
Upheld Denial

A motion was made by Vice Chair Garlich, seconded by Commissioner Perkins and carried 4 to 1 (Katrina Foley voted no) to uphold the Zoning Administrator's decision to deny by adoption of Planning Commission Resolution PC-02-58, based on analysis and information contained in the Planning Division staff report, and findings in exhibit "A".

Chair Foley explained the appeal process.

ONE-YEAR EXTENSION OF
TIME FOR PA-01-03/PA-01-04

Mostaan/Taylor

The Chair opened the public hearing for consideration of a one-year extension of time for PA-01-03/PA-01-04 for Wesley Taylor, authorized agent for Beacon Bay Enterprises, Inc./Robins Properties and Nancy Mostaan, for conditional use permits to allow motor vehicle sales with an administrative adjustment to deviate from front landscape setbacks for auto display purposes (20-foot front landscape setback required, 15-foot landscape setback proposed) on the front half, and to legalize outdoor storage of vehicles on the rear half of a commercial property formerly containing a car wash facility, located at 2059 Harbor Boulevard in a C2 zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and gave a visual presentation of the site characteristics. He recommended approval by adoption of Planning Commission resolution, subject to conditions.

Wesley Taylor, 3 Civic Plaza, Suite 165, Newport Beach, stated that this transaction would have normally closed several months ago except for the discovery of soil contaminated from a former leaking gas tank. Beacon Bay presented a program for remediation that could have taken place in about 90 days. The State Underground Storage Tank Fund would not approve that plan because it was a "dig and haul plan"; however, they would approve a "vapor extraction program" that takes many months. That program has now been approved by the state and the Orange County Health Department and is underway. The installation is almost complete. They are not sure how long the process will take, but they may find within 6 months, the soil has been remediated. He explained the reasons he feels they may need more time after this extension expires in September.

In response to a question from the Chair regarding a comment from Vice Chair Garlich that the site is currently being operated illegally by having vehicles stored on the back half of the lot, Mr. Taylor said that Mr. Robins is willing to move off that property if it does not meet with City approval. Vice Chair Garlich said it was his understanding, many operations have gone through this process, and he didn't understand why this can't finish sooner if the assumption is that the soil will be remediated. He asked what sort of mid-term analysis would satisfy anyone that the end goal is going to be reached, or not reached. Mr. Taylor stated that he has seen these things drag out and that unanticipated problems arise when depending upon state employees who are in full and complete control. Vice Chair Garlich said he is concerned because the property is being used to the benefit of the future owners and the City's conditions of approval are not being met. He asked Mr. Taylor for an equitable solution.

The Chair asked if the applicant is willing to install the landscaping. Mr. Taylor said if the Commission wants Mr. Robins to move off the property he will. Vice Chair Garlich asked if it is possible for an escrow instruction to be added that would result in the potential buyer doing the landscape improvements on the Charle Street side of the property, meet the conditions of approval for PA-01-04, while the rest of this problem runs its course. Mr. Taylor felt it was possible that the wall, gate, landscaping and everything that needs to be done on Charle Street, would exceed Mr. Robins cost of moving to another site temporarily. Vice Chair Garlich said it sounds like the buyer is trying to relieve himself of the need to use the property the way that it was approved and that these things will never actually get done because he will no longer need to use it, but he will use it until next September as a "free ride." Mr. Taylor insisted that Mr. Robins received a rather large inventory and would never have to use this space again for that reason. The Chair advised Mr. Taylor that the area off Charle Street has been used for the same operation for at least the past year and a half without complying with the conditions of approval. He insisted this has not been a continuous thing. Commissioner Davenport suggested that a condition of approval stating the use would be terminated within 60 or 90 days unless the improvements as required in the conditions, on the Charle Street side are completed, would satisfy the one-year extension. Mr. Taylor said that would be no problem.

Mr. Taylor commented that the CUP is good for 180 days and if it is not used, it expires; he wanted to know where they stood. Mr. Taylor further stated that escrow will not close and the owner is not going to use the property under the conditions of the CUP approval during that 180-day period and asked when the 180 days begins. Mr. Valentine explained that assuming Planning Commission approves

the extension, it is good for 1 year and he has up to a year to establish the use.

Jim Lewis, 2050 Charle Street, Costa Mesa, next door to the site, said the biggest part of contamination is actually on the rear of the lot and where the actual environmental drilling is going on; they had to move those cars out of the way to put the wells in, and when they start with the rest of the structure, half of those cars would have to be moved. When it was originally proposed, he and neighbor across the street were the only ones with comments on it and all of those issues have been addressed with the proposal (hours of operation, trucks on the street, etc.). The fact that he is parking the cars there is not going to bother him or the neighbor across the street, now or in the future. If the City has an issue with the visual impact, what might be an inexpensive option at this point, would be screening and chain link fences. The environmental problem could not be foreseen and is rather extensive; it is also under his property. He said that allowing the extension of this project to go along with Mr. Taylor's request will actually encourage the environmental cleanup and is the fastest way to get the project going. He said this project could go on for years and what normally happens is that they'll get most of it out, and if it has to go for a longer period of time after that, they will redesign the program and the project can be built on top while further remediation continues underground.

Robin Leffler urged the Commission to maintain required setbacks, especially the ones in the rear because they protect the residents and give Charle Street some relief from the types of businesses that they live near. She also urged the applicant not to contest the setbacks in the front because Harbor Boulevard is becoming upgraded with the required setbacks and landscaping is a visual relief that gives the business district a more up-scaled appearance.

Jim Tarrance, 3075 Molokai Place, Costa Mesa, thanked the Commission for being so thorough concerning harmony and compatibility.

No one else wished to speak and the Chair closed the public hearing.

A motion was made by Vice Chair Garlich, seconded by Commissioner Davenport and carried 5-0 to approve a one-year extension of time to expire December 16, 2003, by adoption of Planning Commission Resolution PC-02-59, based on analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following additional condition to PA-01-04:

Conditions of Approval

17. These conditions of approval shall be met within 90 days or storage of vehicles shall cease until they are met.

MOTION:
PA-01-03/04 – Ext. of Time
Approved

PLANNING APPLICATION PA-02-26

Millian/Mellot

The Chair opened the public hearing for consideration of Planning Application PA-02-26 for F. Earl Mellott, authorized agent for Dr. Ken Millian, for variances from parking requirements (46 spaces required; 39 spaces provided) and to allow compact spaces (10% maximum allowed through a minor conditional use permit; 10% proposed) in conjunction with a Master Plan for a 6,000 sq. ft. addition to the existing Newport Harbor Animal Hospital, located at 125 Mesa Drive in a PDC zone. Environmental determination: exempt.

Staff recommended the Planning Commission recommend approval to City Council, by adoption of Planning Commission resolution, subject to conditions.

CONSENT CALENDAR:

PUBLIC HEARINGS:

PARCEL MAP PM-01-123

Taylor/Shea

Withdrawn

PLANNING APPLICATION
PA-01-03/PA-01-04

Taylor/Mostaan

Chair Foley also acknowledged her 10-year wedding anniversary.

Commissioner Perkins acknowledged his upcoming 2nd wedding anniversary.

There were no items on the Consent Calendar for this date.

Parcel Map PM-01-123 for Wesley Taylor, authorized agent for Beacon Bay Enterprises, Inc./Patrick Shea, to subdivide an existing 1.01 acre commercial lot into 2 parcels, 22,039 square feet each, located at 2059 Harbor Boulevard in a C2 zone. Environmental determination: exempt.

The application was withdrawn.

The Chair opened the public hearing for consideration of Planning Application PA-01-03/PA-01-04 for Wesley Taylor, authorized agent for Beacon Bay Enterprises, Inc./Robins Properties and Nancy Mostaan, for a conditional use permit to establish a retail used car dealership on the front half and legalize a vehicle storage lot on the rear half of a commercial property formerly containing a car wash facility; with an administrative adjustment and a variance from setback requirements (20' required along both frontages; 15' proposed along Harbor Boulevard and 10' proposed along Charle Street), located at 2059 Harbor Boulevard in a C-2 zone. Environmental determination: exempt.

Associate Planner Mel Lee reviewed the information in the staff report and recommended approval by adoption of Planning Commission resolution, subject to conditions.

Wesley Taylor, authorized agent, 3 Civic Center Plaza, Suite 165, Newport Beach, stated that they reviewed the report and are in agreement with staff's recommendations except for the following: conditions of approval #7, the 2' landscape berm will obstruct the view of automobile display; he suggested a 1' wall or hedge around the planter; condition of approval #8, wrought iron fencing is preferred on the interior rather than block wall; and condition of approval #19, it is necessary to have access on Charle Street.

Mr. Taylor explained that access from Charle Street would be no more than what has been granted to other car dealerships; they are requesting one driveway and noted the applicant would install a solid gate similar to the Toyota gate to block the view; no vehicles would be unloaded on Charle Street; and the rear of the property would be used for new car inventory with restricted hours on use of the driveway. Mr. Taylor agreed to the conditions of approval as stated in the staff report with the exceptions discussed.

Chair Foley pointed out that staff's recommendation in condition of approval #8 was wrought iron fencing or block wall.

Mr. Lee clarified that these conditions apply to Planning Application PA-01-03 for the front portion of the site and the conditions for the rear portion are separate; that if any modifications are made to conditions 7, 8, and 19, PA-01-04 conditions 7, 14 and 15 would also need to be modified since 2 separate motions will be made on this application.

In response to a question from Chair Foley regarding the berm, Mr. Lee explained that this is a standard condition of approval for new development projects and requires front landscaping to be bermed a minimum of 2 feet from the sidewalk. It gives the landscaped area a

greater amount of visibility along the street and makes the overall streetscape more attractive. In the past, landscaping has been provided at grade, consisting of either a lawn area or ground cover which does provide a great deal of visibility at sidewalk level. It would be staff's preference for the applicant to provide a hedge treatment if the Commission chooses to eliminate the berm.

In response to a question from Commissioner Perkins, Chair Foley said the applicant was agreeable to a rear setback of 15' as proposed even though they had requested 10'.

In response to a question from Commissioner Garlich regarding the applicant's statement that the berm has not been the practice for automobile dealerships along Harbor Boulevard, Mr. Lee said standard practice in the past has been for the Planning Commission to grant exceptions for landscaping along street frontages for car dealers. Code would require a 20' bermed setback - the Commission has granted reduced widths anywhere from 10 to 15 feet (he referenced a map included in the Commission packets showing existing landscaped areas along Harbor Boulevard, the most recent being Toyota).

Commissioner Garlich asked Mr. Taylor about his statement that access on Charle Street is a "necessity." Mr. Taylor explained that for a lot as deep as this one, it is impractical to have all ingress and egress from one street. It is a common and good practice to grant access from both streets. He felt it was expensive and inconvenient to continually move vehicles in and out with that kind of depth. The access on Charle Street will be used for internal use only and there would be no service there - it would be sales and storage.

There was discussion between the Commission, staff, and applicant regarding access restricted to Harbor Boulevard and traffic coming from Theodore Robins Ford across the street to the site driveway. There was also discussion regarding exiting the site in the southbound direction only, and traffic conditions on Harbor Boulevard.

In response to a question from Chair Foley, Transportation Services Manager Peter Naghavi stated that no traffic analysis was made relating to this project. He commented that the condition with this driveway, is not much different from hundreds of other driveways along Harbor Boulevard, as far as safety and accessibility is concerned. He said they are correct in that when coming out of that driveway, a left turn cannot be made over the double/double yellow lines. He did not believe there were any routes other than previously discussed.

Melanie Ritchey, 11765 Gladstone Circle, Fountain Valley, on behalf of the owner and residents of 2043 Charles Street, Villa Nova Townhomes complex, stated they did not have a problem with the use. She said they were requesting the 20-foot landscaping setback be required on Charle Street. Chair Foley clarified that code requires a 15-foot setback.

Martin Millard, 2973 Harbor Boulevard, Costa Mesa, spoke in favor of the berm.

There was discussion between Commissioner Davenport and staff regarding the possibility of raising the grade of the display area and still retain the berm.

No one else wished to speak and the Chair closed the public hearing.

MOTION 1:
PA-01-03
Approved

A motion was made by Commissioner Davenport, seconded by Commissioner Garlich and carried 3-1 (Katrina Foley voted no) to based on analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following modification:

Condition of Approval

19. Access to the rear (Charle Street) half of the site shall be ~~provided from Harbor Boulevard limited to a single driveway; the location and width of the driveway to be determined by the Planning Division in conjunction with the applicant. The gate on the driveway shall be opaque and access shall be limited from 8 a.m. to 4 p.m. Vehicle transport trucks are prohibited from loading or unloading on Charle Street.~~

During the motion Chair Foley asked the maker of the motion to consider changing the setback to 20' instead of 15' because of concern for residents on Charle Street. Commissioner Davenport did not agree because the majority of surrounding setbacks were 15' and it was within code.

SUBSTITUTE MOTION:
Failed for lack of a second

A motion was a made by Chair Foley to approve the staff recommendations and the motion died for lack of a second.

Commissioner Perkins said he was also concerned about impacts on residents, however, he asked the maker of the first motion to reduce the hours of operation by one hour and Commissioner Davenport agreed.

Chair Foley again requested the additional 5' for the setback area because she said there is a movement on Charle Street to make those rear setbacks, front setbacks and that the goal is to try to push those setbacks to 20 feet to provide a greater buffer for residents on Charle Street. Commissioner Davenport said he did not know there was a trend to go to 20'; that there are no "through" lots and the setback along Charle Street is a rear setback and within code. There was discussion between Chair Foley and Commissioner Davenport regarding those lots and they reviewed the setback footage on each of the current undeveloped lots. Commissioner Davenport said he was not interested in conditioning more than the ordinance requires.

MOTION 2:
PA-01-04
Approved

A motion was made by Commissioner Davenport, seconded by Commissioner Garlich and carried 3-1 (Katrina Foley voted no) to approve PA-01-04, but deny the request for landscape setback deviation, by adoption of Planning Commission Resolution PC-01-32, based on analysis and information contained in the Planning Division staff report, and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following modifications:

Conditions of Approval

14. *Deleted.*
15. Access to the rear (Charle Street) half of the site shall be ~~provided from Harbor Boulevard limited to a single driveway; the location and width of the driveway to be determined by the Planning Division in conjunction with the applicant. The gate on the driveway shall be opaque and access shall be limited from 8 a.m. to 4 p.m. Vehicle transport trucks are prohibited from loading or unloading on Charle Street.~~

Chair Foley explained the appeal process.

Bill Barton, 112 Calle Diaz, Anaheim Hills, agreed to the conditions of approval. In response to a question from Chair Foley regarding the tent removal, Mr. Barton said he would continue in his efforts to contact the owner. Mr. Lee explained that there are issues concerning the length of time it has been there, and nonconforming banners.

In response to a question from Chair Foley, Mr. Barton explained plan check corrections are being made and the plans should be re-submitted next week, after which permits will be pulled.

No one else wished to speak and the Chair closed the public hearing.

A motion was made by Commissioner Davenport, seconded by Commissioner Garlich and carried 3-0 (Bill Perkins absent) to approve a one-year extension of time to expire July 2, 2002, by adoption of Planning Commission Resolution PC-01-29, based on analysis and information contained the Planning Division staff report, and findings contained in exhibit "A", subject to the conditions in exhibit "B".

MOTION:
Ext. of Time/PA-00-06
Approved

PARCEL MAP PM-01-123

Beacon Bay Enterprises/Taylor

The Chair opened the public hearing for consideration of Parcel Map PM-01-123 for Wesley Taylor, authorized agent for Beacon Bay Enterprises, Inc./Patrick Shea, to subdivide an existing 1.01 acre commercial lot into 2 parcels, 22,039 square feet each, located 2059 Harbor Boulevard in a C2 zone. Environmental determination: exempt.

Staff recommended this item be continued to the Planning Commission meeting of July 9, 2001 as requested by the agent.

John Lewis, 2050 Charle Street, Costa Mesa, stated Theodore Robins Ford was already using the back half of the property for storage and they were bad neighbors at their location on Harbor Boulevard. He suggested a condition be included to restrict their operation from 8 a.m. to 5 p.m. at the Charle Street site. He said the hours of operation are now as late as 10 p.m. Because the cars are sometimes parked in the middle of the street with the lights left on and engines running, it is very disruptive to the residential neighborhood. On one occasion, a car was parked on the front lawn of his shop and was driven over the sprinklers. He did not believe there was enough supervision.

He said there was a verbal agreement between staff and Toyota not to use car-haulers to Charle Street and when the Toyota dealership changed hands a couple of months ago, they weren't aware of the verbal agreement for Charle Street. Mr. Lewis said he was told the Planning Division is sending a letter requesting they abide by the previous agreement. He felt Theodore Robins Ford should be limited to the space they have and should not have vehicles parked on the sidewalk.

Chair Foley pointed out to Mr. Lewis that the next item contains a condition of approval preventing access to Charle Street. In response to a question from Commissioner Davenport, Mr. Lewis said he did not see car-haulers from Theodore Robins Ford parked on Charle Street.

Meloney Lucci, 11725 Gladstone Circle, Fountain Valley, explained she was at the hearing representing residents and owner of 2043 Charle Street, Villa Nova Townhomes, and they did not have a problem with the conditional use permit, however, their concern was with the request for a variance. They asked for the 20-foot setback to remain to allow for adequate trees and landscaping to camouflage some of the structures that will be there as well as parked vehicles.

Commissioner Garlich, having visited the site earlier this week, said he did not see notice signs posted which are normally notify residents and businesses of an upcoming hearing. Mr. Lee said he believed there were notices posted both on Harbor Boulevard and Charle Street frontages, and he would verify the posting. In response to another question from Commissioner Garlich, Mr. Lee said property owners were notified within 500 feet of the property. If there were renters in the complexes, they would not have received notice per the recent change in Council Policy regarding notifications. Commissioner Garlich requested staff replace the posted notices if they were removed, so the neighborhood could be notified about the applications. Mr. Lee confirmed.

No one else wished to speak.

MOTION:
PM-01-123
Continued

A motion was made by Commissioner Davenport, seconded by Commissioner Garlich and carried 3-0 (Bill Perkins absent) to continue the item to the Planning Commission meeting of July 9, 2001.

PLANNING APPLICATION
PA-01-03/PA-01-04

Beacon Bay Enterprises/Taylor

The Chair opened the public hearing for consideration of Planning Application PA-01-03/PA-01-04 for Wesley Taylor, authorized agent for Beacon Bay Enterprises, Inc./Robins Properties and Nancy Mostaan, for a conditional use permit to establish a retail used car dealership on the front half, and legalize a vehicle storage lot on the rear half of a commercial property formerly containing a car wash facility; with an administrative adjustment and a variance from setback requirements (up to 20' required along both frontages; 15' proposed along Harbor Boulevard and 10' proposed along Charle Street), located at 2059 Harbor Boulevard in a C2 zone. Environmental determination: exempt.

Staff recommended this item be continued to the Planning Commission meeting of July 9, 2001 as requested by the agent to resolve issues with the applicant regarding the conditions of approval.

No one else wished to speak.

MOTION
PA-01-03/PA-01-04
Continued

A motion was made by Commissioner Davenport, seconded by Commissioner Garlich and carried 3-0 (Bill Perkins absent) to continue the item to the Planning Commission meeting of July 9, 2001.

PLANNING APPLICATION
PA-01-12

South Coast Repertory/Emmes

The Chair opened the public hearing for consideration of Planning Application PA-01-12 for David Emmes, authorized agent for South Coast Repertory, for a master plan amendment to construct an approximately 34,000 square-foot addition containing a 336-seat auditorium, stage, and ancillary support space; with an amendment to preliminary master plan PA-00-38 to allow 3 stories (2 stories permitted), located at 655 Town Center Drive in a TC zone. Environmental determination: Final Program EIR #1047.

Staff recommended the item be continued to the Planning Commission meeting of June 25, 2001.

No one else wished to speak.

MOTION:
PA-01-12
Continued

A motion was made by Commissioner Garlich seconded by Commissioner Davenport and carried 3-0 (Bill Perkins absent) to continue the item to the Planning Commission meeting of July 9, 2001.

REPORT OF THE DEVELOPMENT SERVICES DEPARTMENT:

None.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: DECEMBER 9, 2002

U.7.
ITEM NUMBER:

SUBJECT: PLANNING APPLICATIONS PA-01-03 AND PA-01-04 (TIME EXTENSION)
2059 HARBOR BOULEVARD

DATE: DECEMBER 2, 2002

FOR FURTHER INFORMATION CONTACT: MEL LEE, ASSOCIATE PLANNER
(714) 754-5611

PROJECT DESCRIPTION

The applicant is requesting approval of a one-year time extension for the following applications:

PA-01-03

Conditional use permit to allow motor vehicle sales at the front (Harbor Boulevard end) of the lot with an administrative adjustment to deviate from landscape setbacks for auto display (20-foot front landscape setback required, 15-foot landscape setback proposed).

PA-01-04

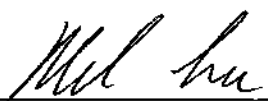
Conditional use permit to legalize outdoor storage of motor vehicles at the rear (Charle Street end) of the lot.

APPLICANT

The applicant is Wesley N. Taylor, representing the property owner, Beacon Bay Enterprises, Inc.

RECOMMENDATION

Approve extension by adoption of Planning Commission resolution, subject to conditions.



MEL LEE
Associate Planner



PERRY L. VALANTINE
Asst. Development Services Director

BACKGROUND

The subject site, which is currently vacant, was utilized as a car wash and gas station (Beacon Bay Auto Wash) from 1961 to 2001. A small take-out restaurant also existed on the property.

On July 23, 2001, the Planning Commission considered the following planning applications for the subject property:

PA-01-03 for the front (Harbor Boulevard) half of the lot:

The applicant requested approval of a conditional use permit to allow motor vehicle sales with an administrative adjustment to deviate from front landscape setbacks for auto display purposes (20-foot front landscape setback required, 15-foot landscape setback proposed). Planning Commission approved PA-01-03 on a 3 to 1 vote (Commission Chair Foley voting no).

PA-01-04 for the rear (Charle Street) half of the lot:

The applicant requested approval of a conditional use permit to legalize outdoor storage of motor vehicles with an administrative adjustment to deviate from rear landscape setbacks (15-foot rear landscape setback required, 10-foot landscape setback proposed). Planning Commission approved PA-01-04 with respect to the vehicle storage, but denied the applicant's request to deviate from the required 15-foot rear landscape setback requirement, on a 3 to 1 vote (Commission Chair Foley voting no).

As part of the project approval, vehicle access to the site from Charle Street was limited to a single driveway (there are currently two driveways on Charle Street).

Commission's approval of the applications was appealed by a Council member. City Council upheld the approval of the project on September 4, 2001.

ANALYSIS

Code allows the Commission to extend the approval of a planning application for successive one-year periods upon showing of good cause by the applicant. The applicant has not been able to close escrow due to the remedial work required to remove contaminated soils from the site. There have been no changes in the City Codes that affect the project as originally approved. All previously approved conditions of approval remain in effect for this project. Copies of the conditions of approval and original staff report are attached to this report.

ALTERNATIVES

If the time extension were not approved, the original permits would expire and the proposed uses could not be established on the property.

CONCLUSION

It is staff's opinion that the time extension requested by the applicant should be granted to allow the improvements to the site to move forward.

Attachments: Location Map
 Draft Planning Commission Resolution
 Exhibit "A" – Findings (PA-01-03)
 Exhibit "B" – Conditions (PA-01-03)
 Exhibit "A" – Findings (PA-01-04)
 Exhibit "B" – Conditions (PA-01-04)
 Applicant's Extension of Time Requests
 Planning Commission Minutes
 Original Planning Staff Report
 Plans and Photos

c: Deputy City Manager - Dev. Svcs. Director
 Assistant City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Wesley N. Taylor
3 Civic Plaza, Suite 165
Newport Beach, CA 92660

Patrick Shea
Beacon Bay Enterprises, Inc.
3152 Redhill Avenue, Suite 230
Costa Mesa, CA 92626-3418

WESLEY N. TAYLOR CO. "SINCE 1946"
• COMMERCIAL-INDUSTRIAL BROKERAGE •

3 Civic Plaza
Suite 165
Newport Beach, CA 92660
(949) 644-4910
FAX (949) 640-1539

October 18, 2002

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

CITY OF COSTA MESA
PLANNING DEPARTMENT

OCT 21 2002

77 Fair Drive
P.O. Box 1200
Costa Mesa, California 92628-1200 ▲

Attn: Mr. Mel Lee

Dear Mel:

Enclosed herewith is our letter dated June 18, 2002 requesting an extension of time of the Conditional Use Permit until December 31, 2003.

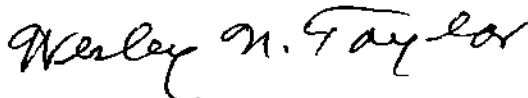
Beacon Bay Enterprises has again been delayed in obtaining its permit for the remedial work on Harbor Boulevard.

They have just signed a contract and have requested regulatory agency approval, which they expect to receive by the end of October. The remedial work will take approximately 18 months to complete; therefore, we will not be able to close the purchase escrow by December 31, 2003, which was our requested extension date.

We hereby request an extension of time on the Conditional Use Permit, until such time as the remedial work is completed and the closure letter issued by the regulatory agency. Thank you for your cooperation in this matter.

Very truly yours,

WESLEY N. TAYLOR CO.



Wesley N. Taylor
President
WNT:mcf

WESLEY N. TAYLOR CO. "SINCE 1946"
• COMMERCIAL-INDUSTRIAL BROKERAGE •

3 Civic Plaza
Suite 165
Newport Beach, CA 92660
(949) 644-4910
FAX (949) 640-1539
RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT
JUN 19 2002

June 18, 2002

CITY OF COSTA MESA
PLANNING DEPARTMENT
77 Fair Drive
P.O. Box 1200
Costa Mesa, California 92628-1200

ATTN: Mr. Mel Lee

Dear Mel:

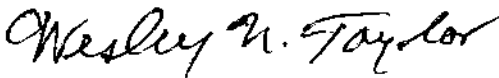
On September 4, 2001, Resolutions #01-58 and 59 were adopted by the City Council creating a Conditional Use Permit for Robins Properties on the land located at 2059 Harbor Boulevard that Robins is purchasing from Beacon Bay Enterprises.

The site needs to be cleared of toxic contamination before the escrow can be closed. The regulatory authorities have been very slow in granting Beacon Bay a permit to do the remedial work in the most expeditious manner resulting in Robins inability to open for business within the time period set forth in the resolution; therefore, we hereby request an extension of the C.U.P. until December 31, 2003 in which to complete the required remedial work.

Thank you for your cooperation.

Very truly yours,

WESLEY N. TAYLOR CO.



Wesley N. Taylor
President

WNT:mcf

cc: Robins Properties
Beacon Bay

RESOLUTION NO. PC-02-59

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA APPROVING AN EXTENSION OF
TIME FOR CONDITIONAL USE PERMIT PA-01-03 AND PA-
01-04**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES
AS FOLLOWS:

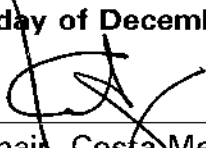
WHEREAS, an application was filed by Wesley N. Taylor, authorized agent for Beacon Bay Enterprises, Inc., owner of real property located at 2059 Harbor Boulevard, requesting a one-year extension of time for a previously-approved conditional use permits+ to allow motor vehicle sales on the front half of the lot with an administrative adjustment to deviate from front landscape setbacks for auto display (20-foot landscape setback required, 15-foot landscape setback proposed); and to allow outdoor storage of motor vehicles on the rear half of the lot; and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on December 9, 2002.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** the extension of time for Conditional Use Permit PA-01-03 and PA-01-04 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for Conditional Use Permit PA-01-03 and PA-01-04 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 9th day of December, 2002.



Chair, Costa Mesa
Planning Commission

AYES: COMMISSIONERS Foley, Davenport, Garlich, Perkins, Egan

NOES: COMMISSIONERS None

ABSENT: COMMISSIONERS None

ABSTAIN: COMMISSIONERS None

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EXHIBIT "A"

FINDINGS (PA-01-03)

- A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the motor vehicle sales use proposed for the front portion of the site is consistent and compatible with the commercial uses on adjacent properties and motor vehicle sales uses elsewhere on Harbor Boulevard. Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the general plan designation for the property.
- B. The proposed project complies with Costa Mesa Municipal Code Section 13-29 (e) because:
 - a. The proposed development and use is compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
 - c. The proposed project complies with applicable performance standards prescribed in the Zoning Code.
 - d. The project is consistent with the General Plan.
 - e. The planning application is for a project-specific case and does not establish a precedent for future development.
- C. The information presented substantially complies with Section 13-29(g)(1) and Section 13-144(b) of the Costa Mesa Municipal Code in that special circumstances applicable to the property exist to justify granting of the administrative adjustment. Specifically, the strict application of the code-required landscaped setback would place the applicant at a competitive disadvantage to similar auto sales uses along Harbor Boulevard, many of which were approved with reduced landscape setbacks. Due to the speed and volume of vehicle traffic along Harbor Boulevard, auto sales uses require the display of vehicles be as close to the street as possible for maximum visibility. This creates a circumstance where approval of the administrative adjustment is justified. Granting the administrative adjustment will not allow a use, density, or intensity, which is not in accordance with the General Plan designation for the property.
- D. The project has been reviewed for compliance with the California Environmental

Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.

- E. The project, as conditioned, is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JULY 23, 2001

VII. 2.
ITEM NUMBER:

SUBJECT: PLANNING APPLICATIONS PA-01-03 AND PA-01-04
2059 HARBOR BOULEVARD

DATE: JULY 17, 2001

FOR FURTHER INFORMATION CONTACT: MEL LEE, ASSOCIATE PLANNER (714) 754-5611

BACKGROUND

The above public hearing items were continued from the June 25, 2001, and July 9, 2001, Planning Commission meetings at the request of the applicant. A summary of the items follows:

Tentative Parcel Map PM-01-123

The parcel map to subdivide the property into two lots has been withdrawn by the applicant.

PA-01-03

The applicant is requesting approval of a conditional use permit to allow motor vehicle sales with an administrative adjustment to deviate from landscape setbacks for auto display (20-foot front landscape setback required, 15-foot landscape setback proposed).

PA-01-04

The applicant is requesting approval of a conditional use permit to legalize outdoor storage of motor vehicles with an administrative adjustment to deviate from landscape setbacks (15-foot rear landscape setback required, 10-foot landscape setback proposed).

APPLICANT

The applicant is Wesley N. Taylor, representing the property owner, Beacon Bay Enterprises, Inc.

RECOMMENDATION

PA-01-03

Approve the conditional use permit for vehicle sales and the deviation from landscaped setback requirements by adoption of Planning Commission resolution, subject to conditions.

PA-01-04

Approve the conditional use permit for motor vehicle storage and deny the request to deviate from landscaped setback requirements by adoption of Planning Commission resolution, subject to conditions.



MEL LEE
Associate Planner



R. MICHAEL ROBINSON
Planning and Redevelopment Manager

PLANNING APPLICATION SUMMARY

Location: 2059 Harbor Boulevard Application: PA-01-03 and PA-01-04

Request: Conditional use permit to allow motor vehicle sales with an administrative adjustment from front landscape setbacks for auto display (20-foot landscape setback required, 15-foot landscape setback proposed) for the front half of the lot, and to legalize outdoor storage of motor vehicles with an administrative adjustment from rear landscape setbacks (15-foot landscape setback required, 10-foot landscape setback proposed) for the rear half of the lot.

SUBJECT PROPERTY:

SURROUNDING PROPERTY:

Zone: <u>C2</u>	North: <u>C2, Commercial Uses</u>
General Plan: <u>General Commercial</u>	South: <u>C2, Commercial Uses</u>
Lot Dimensions: <u>121.28' x 364.44'</u>	East: <u>(Across Harbor Blvd.) C1, Commercial Uses</u>
Lot Area: <u>44,078 SF</u>	West: <u>(Across Charle St.) R3, Multi-Family Residences</u>
Existing Dev.: <u>Vacant and existing motor vehicle storage</u>	

DEVELOPMENT STANDARD COMPARISON

<u>Development Standard</u>	<u>Required/Allowed</u>	<u>Proposed/Provided</u>
Lot Size:		
Lot Width	60 FT	121.28 FT
Lot Area	12,000 SF	44,078 SF
Floor Area Ratio:		
(Moderate Traffic FAR)	.30 FAR (13,177 SF)	.008 FAR (377 SF)
Building Height:		
	2 stories/30 FT	1 story/10 FT
Interior Landscaping (New):		
	150 SF	60 SF*
Setbacks (Building):		
Front	20 FT	85 FT
Side (left/right)	0 FT/15 FT	47 FT/50 FT
Rear	15 FT	258 FT
Setbacks (Landscaping):		
Harbor Blvd.	20 FT	15 FT**
Charle St.	15 FT	10 FT**
Parking:		
Standard	5	5
Handicapped	1	1
TOTAL:		
	6 Spaces	6 Spaces
Driveway Width:		
	25 FT	25 FT

*Staff is requiring the applicant to provide interior landscaping per code

**Applicant has requested approval of an administrative adjustment

CEQA Status: Exempt (Class 32)

Final Action: Planning Commission

DISCUSSION

Theodore Robins Ford has utilized the Charle Street half of the property for excess storage of motor vehicles sold at their dealership since November 2000. The Harbor Boulevard half of the site, which is currently vacant, was utilized as a car wash and gas station (Beacon Bay Auto Wash) that were originally constructed in 1961. A small take-out restaurant also existed on the Harbor Boulevard half of the property.

Based on staff's concerns with the proposal to subdivide the property via Tentative Parcel Map PM-01-123 (i.e., a subdivided commercial lot could create additional impacts to the residential properties along Charle Street), the applicant has withdrawn the request.

Although the subject property is no longer proposed to be subdivided, staff is continuing to process the conditional use permits for the vehicle sales and storage uses separately in the event the uses are operated independent of one another in the future.

PA-01-03

The motor vehicle sales use proposed for the front half of the site is consistent with similar motor vehicle sales uses approved along Harbor Boulevard. Proposed site improvements include a new 375 square foot office building and six striped parking spaces for employees and customers. Staff is requiring, as a condition of approval, that a minimum of 150 square feet of interior landscaping, as required by code, be provided (this would be in addition to the landscaped front setback). Staff is also recommending that either decorative wrought iron fences or masonry walls a minimum of 6 feet in height be constructed along the interior property lines (chain link fencing would not be permitted).

Code requires a 20-foot landscaped setback along Harbor Boulevard. The applicant is proposing a 15-foot landscaped setback, necessitating the approval of an administrative adjustment. Code permits the processing of an administrative adjustment to allow up to a 40% deviation in the required setback (8 feet total). The Zoning Administrator usually reviews administrative adjustments; however, to expedite processing, this item has been brought forward with the planning application for consideration by the Planning Commission.

It is staff's opinion that the strict application of the code-required landscaped setback would place the applicant at a competitive disadvantage to similar auto sales uses along Harbor Boulevard, many of which were approved with reduced landscape setbacks. Due to the speed and volume of vehicle traffic along Harbor Boulevard, auto sales uses require the display of vehicles be as close to the street as possible for maximum visibility. This creates a circumstance where approval of the administrative adjustment is justified.

Typically, variance applications to allow 10-foot landscaped setbacks have been approved for auto sales uses based on these circumstances (see table). When the Commission approved a variance from landscaped setbacks for a motor vehicle sales use at 2665 Harbor Boulevard via PA-00-06 (for which the applicant was recently granted an extension of time), Commission required a 15-foot landscape setback be provided.

Landscape Setbacks for Recently-Approved Auto Dealer Uses			
Case No.	Address	Deviation	Dealer Name
PA-00-06 *	2665 Harbor Blvd.	20' required, 15' approved	N/A
PA-00-01	1989 Harbor Blvd.	20' required, 10' approved	Galaxy/Auto Club
PA-98-45	2901 Harbor Blvd.	20' required, 10' approved	Sterling Imports
PA-96-59 **	2045 Harbor Blvd.	20' required, 20' approved	Toyota
PA-98-35	1970 Harbor Blvd.	20' required, 10' approved	Toyota

*This facility has not been constructed. A time extension was recently granted.

**A request to deviate from landscape setbacks was not proposed by the applicant.

PA-01-04

Theodore Robins Ford is currently utilizing the rear half of the site for excess storage of motor vehicles. Ford did not obtain approval from the City for the storage. The vehicle storage area is directly opposite residential properties on Charle Street, and is partially screened by an existing block wall. Two chain link gates access the two existing drive approaches on the street. The vehicle storage is clearly visible through the gates.

Because of the proximity of this half of the site to residential properties, staff is recommending, as a condition of approval, that vehicular access for the entire site be provided from Harbor Boulevard. No vehicular access from Charle Street would be permitted, the existing drive approaches would be required to be removed, and a solid 6-foot high decorative block wall and landscaping would be required across the entire property frontage.

The purpose of these requirements is to ensure that the storage of motor vehicles is compatible with the residential properties, and that future commercial development does not generate an increase in commercial vehicle traffic on Charle Street that could adversely affect residential properties.

At the June 25, 2001, Commission meeting, an adjacent property owner recommended that if the Commission were to allow vehicle access from Charle

Street, that two additional conditions of approval be added: (1) hours of operation be limited from 8:00 a.m. to 5:00 p.m.; (2) no vehicle transport trucks be permitted to load or off-load from Charle Street.

The applicant is proposing to construct a new block wall 10 feet from property line, necessitating the approval of an administrative adjustment. If the property was subdivided as originally proposed by the applicant, Charle Street would have become the front of the newly created parcel, requiring a 20-foot landscaped setback, which was supported by an individual who spoke at the June 25, 2001, Commission meeting. Because the parcel map to subdivide the property has been withdrawn, however, Charle Street would remain the rear of the property (Harbor Boulevard being the front of the property) and a 15-foot landscaped rear setback would be required per code.

Due to the commercial zone of the subject property and its proximity to residential properties, staff is not in support of the 10-foot landscaped setback proposed by the applicant. Staff is recommending that a 15-foot landscaped setback be provided per code. The additional landscaped setback, the decorative wall and restricted vehicle access from Charle Street, will ensure vehicle storage and other future uses are as compatible with residential properties as possible.

Unlike the justification for the landscaped setback deviation along Harbor Boulevard, it is staff's opinion that there is no justification for a 10-foot landscaped setback on Charle Street because there are no special circumstances related to either the property or the use that would justify approval for the request.

ALTERNATIVES

If the requests are not approved, the applicant could not utilize the property as proposed. The applicant could not submit the same type of application for six months. The property could be developed with commercial retail or office uses not subject to a conditional use permit, provided all of the applicable development standards are complied with.

CONCLUSION

Staff recommends that the following actions be taken:

1. Approve PA-01-03 and the administrative adjustment to allow for the 15-foot landscaped setback along Harbor Boulevard;
2. Approve PA-01-04 and deny the administrative adjustment for the 10-foot landscaped setback proposed along Charle Street, which would require the applicant to provide a 15-foot landscaped setback per code.

Attachments: Applicant's Project Description and Justification
 Map of Landscape Setbacks on Charle Street and Harbor Blvd.
 Minutes from the June 25, 2001, Planning Commission Meeting
 Draft Planning Commission Resolution (PA-01-03)
 Exhibit "A" – Findings (PA-01-03)
 Exhibit "B" – Conditions (PA-01-03)
 Draft Planning Commission Resolution (PA-01-04)
 Exhibit "A" – Findings (PA-01-04)
 Exhibit "B" – Conditions (PA-01-04)
 Plans and Photo

c: Deputy City Manager - Dev. Svcs. Director
 Assistant City Attorney
 Assistant City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Wesley N. Taylor
3 Civic Plaza, Suite 165
Newport Beach, CA 92660

Patrick Shea
Beacon Bay Enterprises, Inc.
3152 Redhill Avenue, Suite 230
Costa Mesa, CA 92626-3418

Nancy Mostaan
323 Promontory Drive East
Newport Beach, CA 92660

DESCRIPTION/JUSTIFICATION

Application #: PA-01-03
Address: 04

Environmental Determination: EXEMPT

2059 Harbor Boulevard, Costa Mesa, California

1. Fully describe your request:

Create a Lot Split or Lot Line adjustment dividing one 44,000 square foot parcel into two 22,000 square foot parcels. The present owner has been unable to find a user for 44,000 square feet after months of extensive marketing, but has found two buyers for 22,000 square feet each. Present use is a Car Wash and small fast food facility, both of which will be demolished. The land will then be used for vehicle sales and storage, no repairs.

2. Justification

- A. For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.
- Harbor Boulevard between the 405 Freeway and Newport Boulevard is one of Orange County's major automotive centers. There are presently 13 automobile sales facilities within 1,000 feet of the subject property which lies directly across the street from Theodore Robins Ford.
- B. For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

3. This project is: (check where appropriate)

- ☐ In a flood zone. ☐ In the Redevelopment Area.
☐ Subject to future street widening. ☐ In a Specific Plan Area.

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

- ☒ Is not included in the publication indicated above.
☐ Is included in the publication indicated above.

Signature

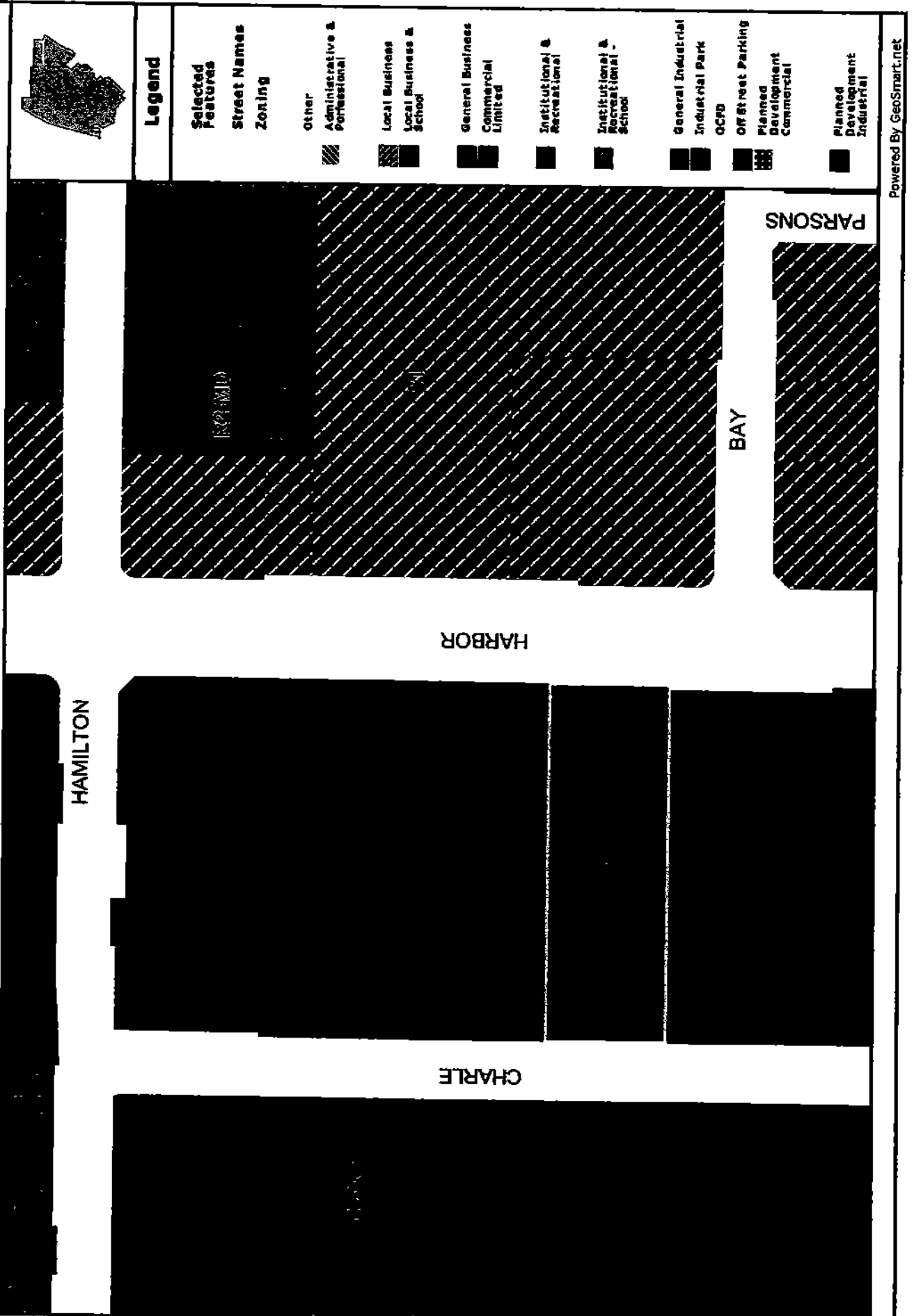
Date



Subject site as seen from Charle Street.

ZONING/LOCATION MAP

2059 HARBOR BOULEVARD



2059 HARBOR BOULEVARD



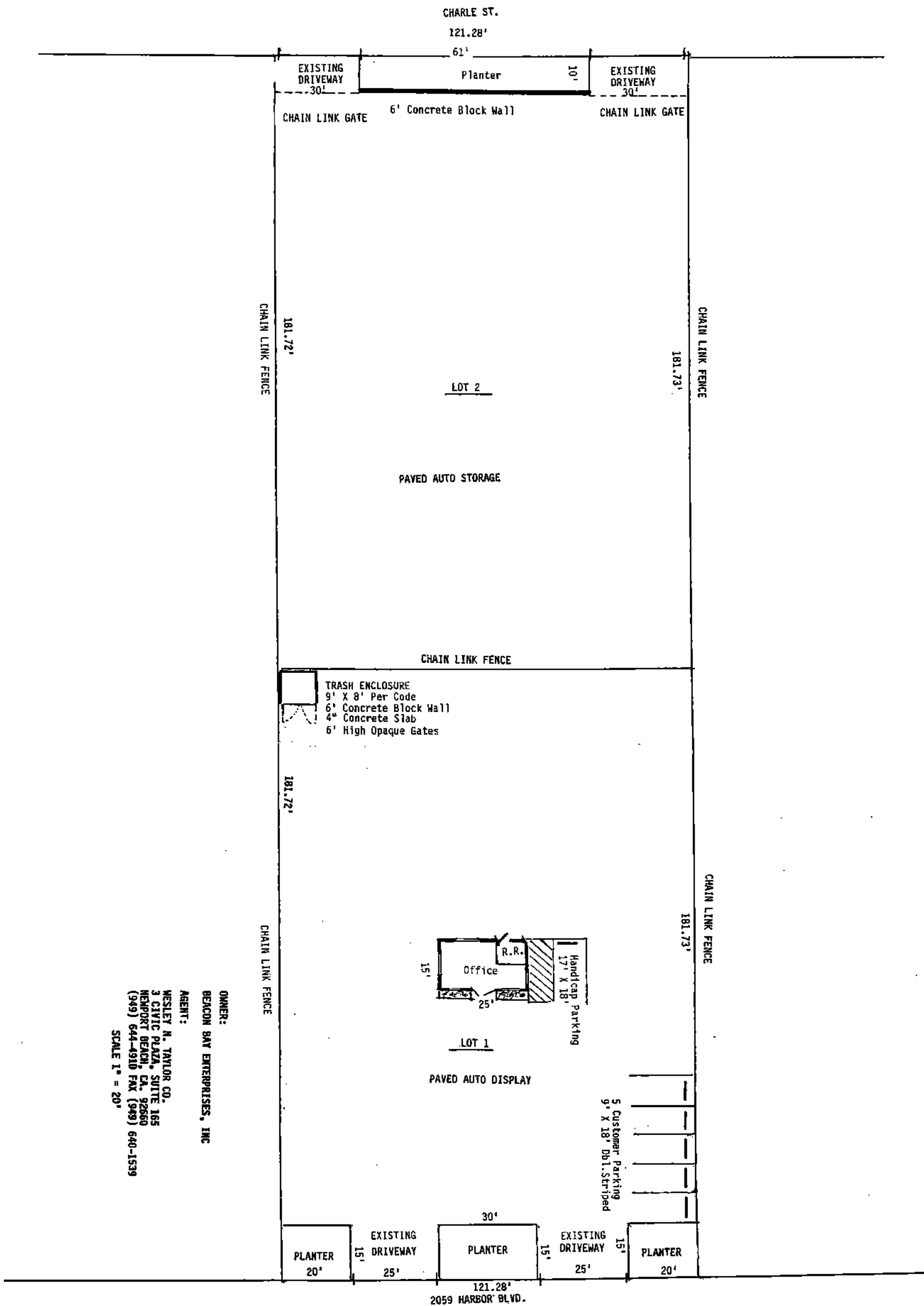
Legend

Selected
Features

Street Names

Ortho
Photography

Parcels



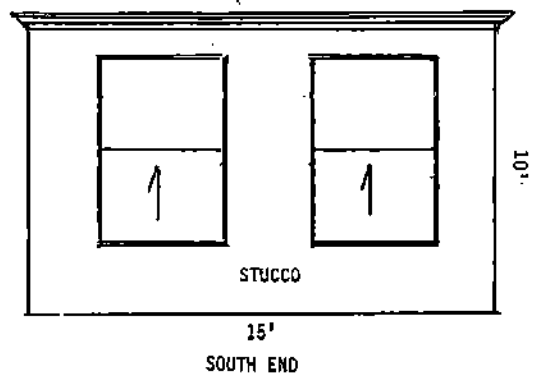
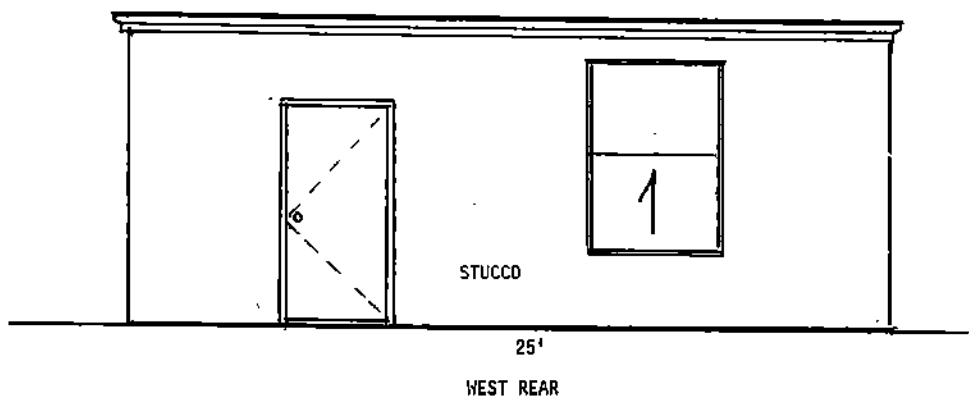
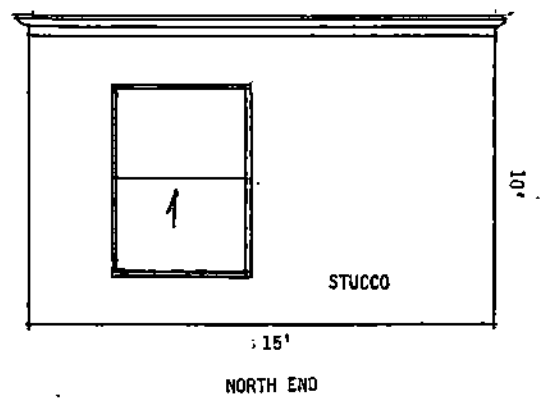
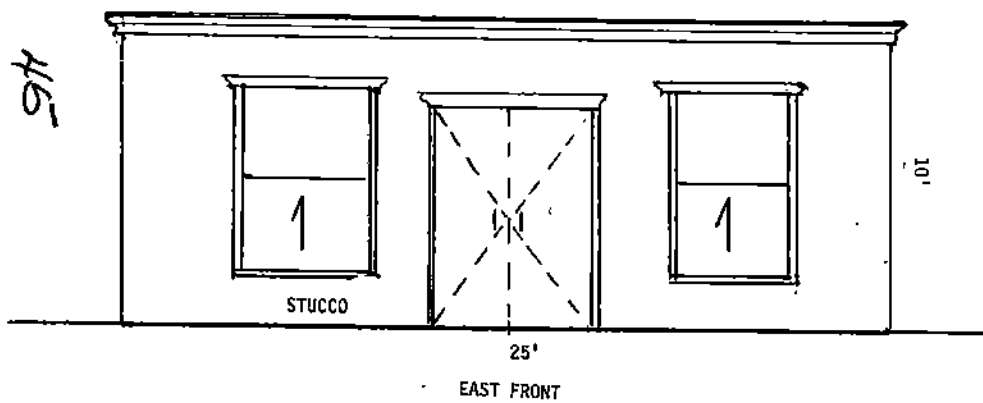
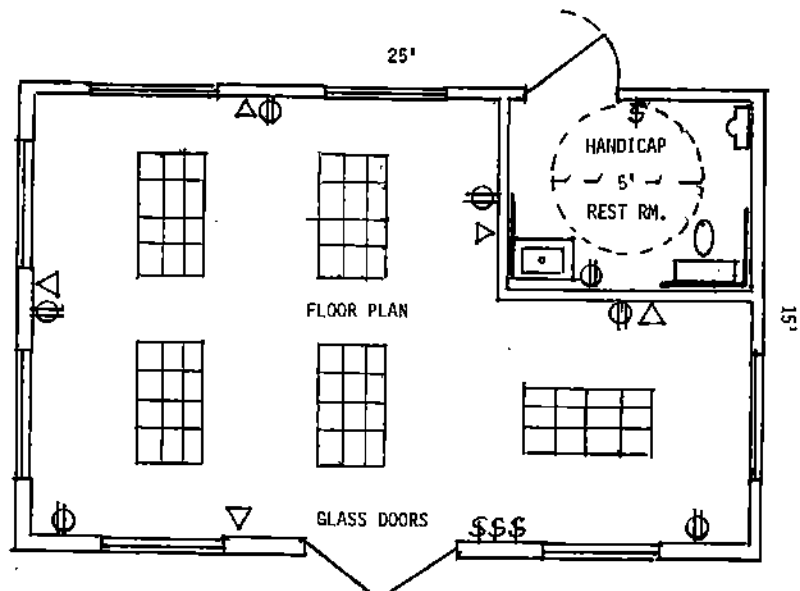
OWNER:
BEACON BAY ENTERPRISES, INC

AGENT:
WESLEY N. TAYLOR CO.
3 CIVIC PLAZA, SUITE 165
NEWPORT BEACH, CA. 92660
(949) 644-4910 FAX (949) 640-1539

SCALE 1" = 20'

44

FLOOR PLANS AND ELEVATIONS
2059 HARBOR BLVD.



OWNER:
BEACON BAY ENTERPRISES, INC
AGENT:
WESLEY M. TAYLOR CO.
3 CIVIC PLAZA, SUITE 165
NEWPORT BEACH, CA. 92660
(949) 644-4910 FAX (949) 640-1539

SCALE 1/4" = 1'